

2SHB 2576 - H AMD TO H AMD (H-4447.3/16) 811

By Representative Manweller

1 On page 6, after line 5, insert the following:

2 **"Sec. 104.** RCW 42.56.550 and 2011 c 273 s 1 are each amended to  
3 read as follows:

4 (1) Upon the motion of any person having been denied an  
5 opportunity to inspect or copy a public record by an agency, the  
6 superior court in the county in which a record is maintained may  
7 require the responsible agency to show cause why it has refused to  
8 allow inspection or copying of a specific public record or class of  
9 records. The burden of proof shall be on the agency to establish  
10 that refusal to permit public inspection and copying is in  
11 accordance with a statute that exempts or prohibits disclosure in  
12 whole or in part of specific information or records.

13 (2) Upon the motion of any person who believes that an agency has  
14 not made a reasonable estimate of the time that the agency requires  
15 to respond to a public record request, the superior court in the  
16 county in which a record is maintained may require the responsible  
17 agency to show that the estimate it provided is reasonable. The  
18 burden of proof shall be on the agency to show that the estimate it  
19 provided is reasonable.

20 (3) Judicial review of all agency actions taken or challenged  
21 under RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall  
22 take into account the policy of this chapter that free and open  
23 examination of public records is in the public interest, even though  
24 such examination may cause inconvenience or embarrassment to public  
25 officials or others. Courts may examine any record in camera in any  
26 proceeding brought under this section. The court may conduct a  
27 hearing based solely on affidavits.

1 (4) Any person who prevails against (~~an~~) a state agency in any  
2 action in the courts seeking the right to inspect or copy any public  
3 record or the right to receive a response to a public record request  
4 within a reasonable amount of time shall be awarded all costs,  
5 including reasonable attorney fees, incurred in connection with such  
6 legal action. Any person who prevails against a local agency in any  
7 action in the courts seeking the right to inspect or copy any public  
8 record or the right to receive a response to a public record request  
9 within a reasonable amount of time, and the court finds that the  
10 local agency intentionally or recklessly withheld the record or  
11 failed to respond within a reasonable amount of time, shall be  
12 awarded all costs, including reasonable attorney fees, incurred in  
13 connection with such legal action. In addition, it shall be within  
14 the discretion of the court to award such persons an amount not to  
15 exceed one hundred dollars for each day that he or she was denied  
16 the right to inspect or copy said public record by an agency.

17 (5) For actions under this section against counties, the venue  
18 provisions of RCW 36.01.050 apply.

19 (6) Actions under this section must be filed within one year of  
20 the agency's claim of exemption or the last production of a record  
21 on a partial or installment basis."

EFFECT: Adds a new section to the bill that amends provisions of the Public Records Act (PRA), which entitle any person who prevails in a court action against a state or local agency (relating to the right to inspect or copy any public record or to receive a response to a public record request within a reasonable amount of time) to an award of all costs and attorney fees incurred in connection with the action. Provides that for court actions against local agencies, such persons are only entitled to an award of costs and attorney fees if the court finds that the local agency intentionally or recklessly withheld a record or failed to respond within a reasonable amount of time.

--- END ---